

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY ALLEN CROSS GUNS,

Defendant.

CR 13-52-GF-BMM-02

**FINDINGS AND  
RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE  
JUDGE**

**I. Synopsis**

Mr. Cross Guns was accused of violating his conditions of supervised release by failing to report to the United States Probation Office within 72 hours of release from custody, using alcohol, failing to register as a violent offender, and using methamphetamine. Based on the government's motion to dismiss, the petition to revoke Mr. Cross Guns's supervised release should be dismissed.

**II. Status**

Mr. Cross Guns pleaded guilty of to the crime of Burglary in 2013. (Doc. 77.) He was sentenced to 27 months of incarceration, followed by three years of supervised release. (Doc. 98.) Mr. Cross Guns's first period of supervised release

began on August 14, 2015. (Doc. 115.)

In January 2016, Mr. Cross Guns's supervised release was revoked because he violated its conditions by using methamphetamine and alcohol, failing to report for substance abuse testing, and failing to notify his probation officer prior to a change in residence. He was sentenced to six months in custody and 30 months of supervised release. (Doc. 128.) Mr. Cross Guns's next term of supervision began on May 27, 2016. (Doc. 140.)

### **Petition**

On June 2, 2016, the United States Probation Office filed a petition asking the Court to revoke Mr. Cross Guns's supervised release. In the petition, the Probation Office accused Mr. Cross Guns of failing to report to the United States Probation Office within 72 hours of release from custody in violation of the Preamble to the Standard Conditions of Mr. Cross Guns's supervised release. The Probation Office accused Mr. Cross Guns of consuming a pint of alcohol in violation of Standard Condition 7 of his supervised release. The Office also accused Mr. Cross Guns of violating Special Condition 10 of his supervised release by failing to register as a violent offender. The petition alleged that Mr. Cross Guns violated Special Condition 6 of his supervised release by using methamphetamine. (Doc. 140.) Based on the petition, United States District Judge

Brian Morris issued a warrant for Mr. Cross Guns's arrest. (Doc. 141.)

### **Initial appearance**

Mr. Cross Guns appeared before the undersigned on June 6, 2016, in Great Falls, Montana. Federal Defender Evangelo Arvanetes accompanied him at the initial appearance. Assistant United States Attorney Jeffrey Starnes represented the United States.

Mr. Cross Guns said he had read the petition and understood the allegations. He did not contest the alleged violations. Mr. Cross Guns waived the preliminary hearing, and the parties consented to the jurisdiction of a magistrate judge for the revocation hearing.

### **Revocation hearing**

On July 6, 2016, Mr. Cross Guns appeared at the revocation hearing with Mr. Arvanetes. Assistant United States Attorney Ryan Weldon appeared on behalf of the United States.

Mr. Weldon advised the Court that Mr. Cross Guns obtained a bed date at a treatment facility. Mr. Weldon moved to dismiss the petition to revoke Mr. Cross Guns's supervised release.

### **III. Analysis**

The petition to revoke Mr. Cross Guns's supervised release should be

dismissed based on the government's motion and the fact that Mr. Cross Guns has been admitted to a treatment facility. Mr. Cross Guns should be able to remain on supervision, and the conditions previously imposed should remain in effect.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO  
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

Dated the 12th day of July, 2016.

  
John Johnston  
United States Magistrate Judge